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SIPDIS

SENSITIVE

DEPARTMENT FOR EAP, EAP/BCLTV, DRL; US PACOM FOR FPA

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [TH](#) [HUMAN](#) [RIGHTS](#)

SUBJECT: TAK BAI INDEPENDENT COMMISSION REPORT

REF: 04 BANGKOK 8567

1. (U) SUMMARY: The Independent Commission investigating the October 2004 Tak Bai incident has concluded that three senior security officials, including the Fourth Army Commanding General, failed to monitor their subordinates during the transfer of detainees from Tak Bai to a Pattani Army camp. Officially seven people remain missing. The Independent Commission suggested no legal action or punitive recommendations (in the belief that such recommendations were beyond its mandate), but the Government has assigned the Ministry of Defense to conduct a military disciplinary investigation of the three senior officers cited in the report, and ordered the Police Department to conduct a criminal investigation. The Government has also established a committee to provide assistance and compensation to victims and their families. The Thai Senate and the National Human Rights Commission (NHRC) have also completed similar reports on Tak Bai. The Senate report describes abuses in more detail and calls for greater accountability. No progress in holding the officers accountable is expected until after the February general election. END SUMMARY.

GENERAL PHISAN CITED FOR NEGLIGENCE; SEVEN STILL MISSING

2. (U) On January 18, the Embassy received an English language document from the Ministry of Foreign Affairs entitled, "Summary of the Findings and Recommendations of the Independent Fact-Finding Commission on the 25 October 2004 Incident Leading to the Death of Individuals at Tak Bai District, Narathiwat Province, Thailand." A copy of the document was faxed to the Thai desk and to DRL on January 20, 2005. The 13-page report provides a general overview of events leading to the deaths of over 80 Muslim demonstrators by discussing 11 issues for consideration.8 A large portion of the summary provides justification in general for the use of force under certain conditions and reinforces the authority of the Fourth Army Regional Commander, General Phisan Watthanwongkhiri, to take action in response to a violent demonstration. A set of nine recommendations completes the report. The report notes that in addition to the numbers previously reported as shot or killed by suffocation, the commission found that seven people remain missing.

3. (U) However, the commission's report further states that the commanding officers concerned (were seen) to be badly lacking in judgment for having failed to supervise the transportation of the persons in custody until its completion.8 The report cites 4th Army commander Gen. Phisan (by title and position but not by name) for having failed to properly perform his duty and failed in his responsibility as a commander to closely monitor and supervise the mission he entrusted to his subordinates.8 Major General Chaloenchai Wirunphet, Commander of the 5th Infantry Regiment, and cited as the officer in charge of crowd control at Tak Bai, is also criticized for failing to perform his duties responsibly. Major General Sinchai Nutsathi, Deputy 4th Army Commanding General, assigned to prepare logistics (transportation and accommodation) for the demonstrators, is also cited in a similar manner.

THAI SENATE AND HUMAN RIGHTS COMMISSION REPORTS

4. (U) Three Senate Committees also investigating the Tak Bai incident have released a joint report which cited more specific human rights abuses at Tak Bai and in its aftermath, including the beating and kicking of demonstrators. The Senate report states that those responsible for the incident must be punished through the legal system (right up to the highest level.8 The National Human Rights Commission (NHRC) also has issued a brief three-page summary statement, reiterating the concerns of both the Independent Commission and the Senate reports, but not providing details on human rights abuses and only generally calling on the Government to pay compensation to victims.

FURTHER INVESTIGATIONS

5. (SBU) COMMENT: From the outset, members of the

investigating Independent Commission were very clear: they would produce only a report and they had no authority to hold persons accountable for their actions. Their position was: &It should be for the agencies tasked with the implementation of the judicial process to dispense justice for all the parties concerned.⁸ The Thaksin Cabinet, to its credit, has instructed both the military and the police to take up investigations of the three officers cited in the report. Military disciplinary and Police criminal investigations have been ordered. But with the country's attention captivated by post-tsunami efforts and daily election wrangling, further investigation and true accountability probably will not move forward swiftly without continued pressure from Thai human rights groups and civil society leaders. END COMMENT.

BOYCE